REMARKS

Present Status of the Application

The Office Action rejected all pending claims 1-12. Specifically, claims 8, 9 and 11 were rejected under 35 U.S.C. 102(b) as being anticipated by Sisson (US 4,209,563), claims 1-4 & 6 rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Collier, IV et al. (US 5,260,126, hereinafter as Collier), claims 5 and 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Collier in view of Romanek (US 4,446,189), and claims 8-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Collier in view of Sisson.

In response thereto, Applicants have further amended claims 1 and 4, canceled claims 2 and 8-10, and submitted the following remarks. Reconsideration of claims 1, 3-7 and 11-12 is respectfully requested.

Discussion of Rejections to Claims 1-7 under 35 U.S.C. 102(b) and/or 103(a)

Claims 1-4 and 6 were rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Collier, and claims 5 and 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Collier in view of Romanek. Please note that Applicants have further amended claims 1 and 4 and canceled claim 2.

A feature of amended claim 1 is the inclusion of a ***long*** nonelastomeric fiber. Collier fails to disclose and even teaches away the feature, because his elastic nonwoven fabric uses a ***short*** nonelastomeric fiber and his process precludes using a long nonelastomeric fiber.

More specifically, a specific embodiment of Collier's elastic nonwoven fabric possibly containing a nonelastomeric fiber is describe in claim 14 of Collier, including a coherent matrix (A) of elastic fibers comprising an elastomeric polymer and a tackifying resin, and at least one other material selected from nonelastomeric fibers and particulates, wherein the particulates are selected from activated charcoal and superabsorbents.

The fabricating process of the elastic nonwoven fabric of Collier's claim 14 containing a nonelastomeric fiber is described in col. 13, line 15 to col. 15, line 68. Taking the process illustrated in FIG. 7 as an example, a mat or batt 70 of nonelastic fibers is cut minutely by a picker roll 66 arrangement with teeth 68 into individual nonelastic fibers 64, and then the individual nonelastic fibers 64 are conveyed toward the stream 92 of elastic fibers from the tip 92 of a nozzle 74, as described in col. 13, lines 25-29 and 55-61. Because the nonelastic fibers are cut minutely into individual nonelastic fibers, they can be easily dispersed and deposited in the coherent matrix of elastic fibers like the particulates can to form an elastic nonwoven fabric 88. In other words, the nonelastomeric fiber in Collier can be handled just like the particulates because it is cut into such ***short*** fibers, as also indicated by that the nonelastomeric fibers and particulates in claim 14 are mentioned in ***Makushi language.***

Moreover, the description of "*at least one other material selected form the group consisting of nonelastic fibers and particulates*" in claim 14 implies that the nonelastic fiber in Collier is an optional additive and is a ***non-framework*** component like the particulate is. On the contrary, the long nonelastomeric fiber in this invention is a necessary component and a ***framework*** component, as indicated by the descriptions in the specification.

Accordingly, Collier fails to disclose and even teaches away the inclusion of a long nonelastomeric fiber. It is noted that Romanek also fails to disclose or suggest the feature.

For at least the above reasons, Applicants respectfully submit that amended independent claim 1 patently defines over the prior art.

For at least the same reasons mentioned above, Applicants respectfully submit that claims 3-7 (in)directly dependent from claim 1 also patently define over the prior art.

Discussion of Rejections to Claims 8, 9 and 11 under 35 U.S.C. 102(b)

Claims 8, 9 and 11 were rejected under 35 U.S.C. 102(b) as being anticipated by Sisson. Please note that Applicant have canceled claims 8-10.

A feature of independent claim 11 is that the elastic nonwoven fabric is spun with a melt-blowing method or a spunbonding method. However, Sisson fails to disclose the feature, while the melt-blowing or spunbonding method does make the elastic nonwoven fabric different from that of Sisson ***in the (texture) structure.***

As described in claim 1 of Sisson, the elastic cloth thereof is made by forwarding relatively elastomeric fibers and elongatable but relatively nonelastic fibers for well dispersed random laydown of an unbonded web with random fiber crossings onto a forming surface and bonding at least some fiber crossings to provide a coherent bonded cloth web. The specific methods for forming such an elastic cloth are described only in the Examples (I and II). Generally, the apparatus in Fig. 6, 13 or 19 is used, each of the polymers is melted and spun from a die to form a stream of polymer monofilaments, and the streams are merged together and mechanically extended to about

1-15 denier (col. 11, lines 59-60), wherein the streams of monofilaments or the merge point is controlled by an air flow.

Moreover, as described in col. 7, lines 19-53, the filament forwarding in Sisson, no matter by air aspirators or any other, is positive and precisely controlled for each individual filament by positive draw of each filament to the formation point. On the other hand, since ***other methods like melt-blow methods cause air turbulence***, the streams of filaments cannot be correctly and smoothly directed to the formation point (col. 7, lines 23-33).

Briefly speaking, because in Sisson's method i) the filament distribution in a filament stream cannot disturbed in the extension, ii) undesired contact between self-adhesive filaments should be prevented and iii) the filaments have to be aligned in desired directions in the web formation, it is essential to particularly control the drawing air flow in a specific manner in these steps. Hence, the melt-blowing methods and the spunbonding methods causing air turbulence are taught away by Sisson, so that Sisson fails to disclose the feature that the elastic nonwoven fabric is spun with a melt-blowing or spunbonding method.

Moreover, with the above control, Sisson's elastic nonwoven fabric is surely different from one made with a melt-blowing method or a spunbonding method ***in the (texture) structure***, which means that the *process* (a melt-blowing method or a spunbonding method) included in the *product* claim 11 *eventually causes a* ***structural*** *feature of the product*, as required by the related rules described in MPEP.

For at least the above reasons, Applicants respectfully submit that claim 11 patently defines over the prior art, so does claim 1 that also has the above feature of claim 11.

Discussion of Rejections to Claims 8-12 under 35 U.S.C. 103(a)

Claims 8-12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Collier in view of Sisson. Please note that Applicant have canceled claims 8-10.

Another feature of independent claim 11/1 is the inclusion of a ***long*** nonelastomeric fiber. As mentioned above, Collier fails to disclose and even ***teaches away*** the use of a long nonelastomeric fiber. Hence, one of ordinary skill in the art is not motivated to combine Sisson with Collier, i.e., to use Sisson's long nonelastomeric fiber to replace the short one in Collier's elastic nonwoven fabric to obtain the invention of claim 11/1.

Furthermore, even if Sisson and Collier were combined ***by hindsight,*** the elastic nonwoven fabric of this invention including *a long nonelastomeric fiber formed with a melt-blowing method or a spunbonding method* still cannot be obtained, because Sisson ***teaches away*** to use a long nonelastomeric fiber formed with a melt-blowing method or a spunbonding method and Collier substantially contains no embodiment that uses a long nonelastomeric fiber.

For at least the above reasons, Applicants respectfully submit that independent claim 11/1 and claim 12 dependent from claim 11 both patently define over the prior art.

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CONCLUSION

For at least the foregoing reasons, it is believed that pending claims 1, 3-7 and 11-12 are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

Respectfully submitted,
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